

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1002

BS
SERIAL

In The
United States Court of Appeals
For The Second Circuit

UNITED STATES OF AMERICA,

Appellee,

- against -

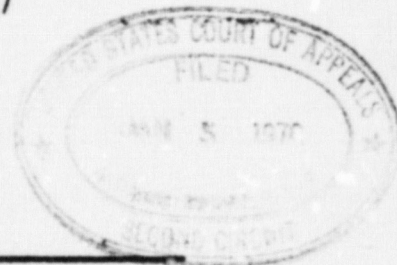
ROBERTA WADDELL,

Defendant-Appellant.

*On Appeal from the United States District Court for the Eastern
District of New York*

**APPENDIX FOR
DEFENDANT-APPELLANT**

GOLDMAN & HAFETZ
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73 CR 1025

Form No. 100
CRIMINAL DOCKET

TITLE OF CASE

THE UNITED STATES

For U. S.:

VS.

ARMANDO MARGULIS and

ROBERTA WADDELL

For Defendant:

Did conspire to import narcotics with intent to
distribute etc.

ABSTRACT OF COSTS

AMOUNT

CASH RECEIVED AND DISBURSED

DATE

NAME

RECEIPT

Filing,

Clerk,

Marshal,

Attorney,

Commissioner's Court,

Witnesses,

DATE

PROCEEDINGS

1-29-73

Before Costantino J - Indictment filed.

2/7/73

Before DOOLING, J. - Case called - Deft Waddell and counsel present.
Deft Waddell pleads not guilty - Warrant outstanding on Margolis -
trial date set pending his apprehension

2-1-74

Govts Notice of Readiness for Trial filed (WADDELL)

2-7-74

Letter of Jan. 21, 1974 received from Chambers filed from David
De Petris, Asst US Atty. with reply from Judge Dooling of 1-23-74

2-16/74

Letter from Paul Rooney, esq. to chambers dated 10/15/74 filed re
WADDELL

2-23/75

Magistrate's file 73 M 1121 inserted into Criminal file

3-1-75

Before DOOLING J - case called - deft WADDELL & counsel Paul Rooney
present - deft after being advised of her rights by the court with-
draws her plea of not guilty and enters a plea of guilty to count 1

DATE	PROCEEDINGS	PLAINTIFF
	Bail contd and sentence add without date.	
9/75	Before DOOLING, J. - Case called - Deft and counsel present - Deft sentenced to imprisonment for a period of 5 years pursuant to T-18, U.S.C. Sec. 4208(a) to become eligible for parole at such time as the Board of Parole may determine - Execution of sentence stayed until 7/3/75 at 2:00 PM.	
8-19-75	Stenographers transcript filed dated May 9, 1975 (WADDELL)	
8-24-75	By DOOLING J - Order filed that the deft ROBERTA WADDELL be taken to the Warden and/or any of his duly authorized representatives of the Bureau of Prisons at the Federal Reformatory for Women, Alderson, West Va. by 4:00 PM. on July 7, 1975.	
7/1/75	Certified copy of Judgment and Commitment ret'd and filed - Deft directly to Alderson W. Va (WADDELL)	
8-13-75	Notice of Motion filed (deft Roberta Waddell) for reduction of sentence pursuant to Rule 35. (ret'd to Chambers as directed)	
8-21-75	Before DOOLING J - case called - motion for reduction of sentence argued - decision reserved - On motion of AUSA Levin-Epstein count 1 is dismissed as to deft WADDELL.	
8-25-75	Letter of Aug. 22, 1975, filed received from Chambers re deft. From Paul K. Rooney, Esq.	
8-3-75	Petition for Writ of Habeas Corpus ad Prosequendum filed (Wadell)	
8-3-75	By DOOLING J - Writ issued, ret. 9-19-75 (Waddell)	
8-10-75	Memorandum filed received from Chambers to all counsel re deft. WADDELL motion to reduce sentence will be argued in court on Sept. 15, 1975 at 4:30 PM (ret'd to Chambers as directed)	
8/75	Before DOOLING, J. - Case called - Deft and counsel present - Deft sentenced to a period of 5 years pursuant to T-18, U.S.C. Sec. 4208(a) to become eligible for parole at such time as the Board of Parole may determine - a special additional parole term of 3 years - On motion of A.U.S.A. count 2 is dismissed (WADDELL)	
8/75	Judgment and Commitment filed - certified copies to Marshal	
8-26-75	Notice of Appeal filed (WADDELL)	
8-26-75	Docket entries and duplicate of Notice of Appeal mailed to the Court of Appeals (WADDELL)	
9-75	Order received from the Court of Appeals filed that the Index to Record on appeal as to deft Waddell be docketed on or before October 20, 1975.	
9-15-75	Two stenographers transcripts filed re deft Waddell (one dated Aug. 15, 1975 and one dated Sept. 15, 1975)	

- 11/28/75 Order received from court of appeals that record be filed on
12/15/75 (WADDELL)
- 12/2/75 Letter from Frederick Hafetz dated 11/26/75 filed
- 12-1-75 By DOOLING J - Order filed that the firm of Goldman & Hafetz
60 E. 42nd St., attorneys of record for deft. Robert Waddell
her appeal to the U.S. Court of Appeals from the judgment of
conviction in this court be permitted to examine at the office of
the Probation Service the original pre-sentence report in this
case prepared by the US Probation Office and any subsequent
corrected pre-sentence report in this case etc.
- 1/3/75 Stenographers Transcript dated 3/14/75 filed

INDICTMENT

4a

EJB:DAD:lr
F.#733,514

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

-against-

ARMANDO MARGULIS and
ROBERTA WADDELL,

Defendants.

INDICTMENT

Cr. No.
(T. 21, U.S.C., §952(a), §960(a)(1)
§963, §841(a)(1) and §846
T. 18, U.S.C., §2)

-----X

NOV 29 1973

THE GRAND JURY CHARGES:

Dooling J.

COUNT ONE

On or about and between the first day of January 1973 and the first day of August 1973, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants ARMANDO MARGULIS and ROBERTA WADDELL, together with others known and unknown to the grand jury, did knowingly and intentionally combine, conspire, confederate and agree to violate Section 841(a)(1), Section 952(a) and Section 960(a)(1) of Title 21, United States Code.

1. It was part of said conspiracy that the defendants and co-conspirators would knowingly and intentionally import into the United States from South America quantities of cocaine, a Schedule II narcotic drug controlled substance.

2. It was further a part of said conspiracy that the defendants and co-conspirators would knowingly and intentionally distribute and possess with intent to distribute substantial quantities of cocaine, a Schedule II narcotic drug controlled substance.

3. It was further a part of said conspiracy that the defendants and co-conspirators would conceal the existence of the conspiracy and would take steps designed to prevent disclosure of their activities. (Title 21, United States Code, Section 846 and Section 963)

1545
335-3455

COUNT TWO

On or about the first day of August 1973, within the Eastern District of New York, the defendant ARMANDO MARGULIS and the defendant ROBERTA WADDELL did knowingly and intentionally import approximately Thirteen (13) pounds of cocaine hydrochloride, a Schedule II narcotic drug controlled substance into the United States from South America in violation of Title 21, United States Code, Section 952(a). (Title 21, United States Code, Section 952(a) and Section 960(a)(1); Title 18, United States Code, Section 2)

15 yrs, 925, 13 yrs ago and

A TRUE BILL

FOREMAN

UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

United States District Court

JUDGMENT AND PROBATION COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTHS

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and defendant waived right to counsel appointed by the court and the defendant chooses to represent himself

☒ WITH COUNSEL

Paul Rooney, Esq.

IN OFFICE CITY
U.S. DISTRICT COURT NO. 1
HOLD CONTENDERS

☒ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

in count 1

JUL 1 1975

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged
☒ GUILTY.

TIME AM
PM

Defendant has been convicted as charged of the offense(s) of violating T-1, U.S.C. Sec. 952(a), 960(a)(1), 963, 841(a)(1), 846, in that the defendant, with another, did conspire to knowingly & intentionally import into the U.S. from South America quantities of cocaine and to intentionally conceal the existence of the conspiracy and to distribute substantial quantities of cocaine, a Schedule II narcotic drug controlled substance.

The court asked whether defendant had anything to say why judgment should not be pronounced, but defendant said nothing. The court then asked whether defendant was ready to accept the judgment and sentence, and defendant said yes. The court then asked whether defendant was ready to accept the conditions of probation, and defendant said yes. The court then ordered that defendant be committed to the custody of the Attorney General & his authorized representative for a period of 18 months pursuant to T-18, U.S.C. Sec. 4208(a)(2) to become eligible for parole at such time as the Board of Parole may determine. Defendant is to be released until July 3, 1975 at 2:00 P.M.

SENTENCE
OF
PROBATION
ORDER

SPECIAL
CONDITIONS
OF
PROBATION

ADDITIONAL
CONDITIONS
OF
PROBATION

COMMITMENT
ORDER

The court orders commitment to the custody of the Attorney General and recognizes

If defendant has any objections to the conditions of probation, he should state them at this time. If he has no objections, he should sign this order and submit it to the U.S. Marshal or other qualified official.

CERTIFIED AS A TRUE COPY

John F. Rooney
15/1975

UNITED STATES DISTRICT COURT OF NEW YORK

ROBERTA MADON

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date: 9/15/75

☐ WITHOUT COUNSEL. However the court advised defendant of the right to counsel and that if he cannot afford counsel, one will be appointed for him if he is indigent.

☒ WITH COUNSEL Paul Rooney, Esq. (Name of counsel)

PLEA ☒ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLIT CONTENDERE ☐ NOT GUILTY

There being a finding/verdict of ☐ NOT GUILTY. Defendant is discharged.
☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of violating 21 U.S.C. Sec. 846, 960(a)(1), 963, 841(a)(1) and 846, in that the defendant, with others, did conspire to knowingly and intentionally import into the United States from South America quantities of cocaine and to intentionally conceal the existence of the conspiracy and to distribute substantial quantities of cocaine, a Schedule II narcotic drug controlled substance.

The court asked whether defendant had anything to say why judgment should be pronounced as recommended and whether he wished to make any statement in mitigation of punishment. Defendant stated that he had nothing to say and no statement to make.

The court advised that if defendant is found guilty, he will be committed to the custody of the Attorney General or his authorized representative for a term of 5 years pursuant to 18 U.S.C. Sec. 4208(a)(2). To become eligible for parole at such time as the Board of Parole may determine, and to a special additional parole term of 3 years. On motion of Assistant U.S. Attorney Schall count 2 is dismissed.

SENTENCE OR PROBATION ORDER

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The court may change the conditions of probation, suspend or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and commit defendant to custody for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends:

It is further ordered that the court's judgment and this order be certified to the U.S. Marshal and transmitted to the U.S. Bureau of Prisons and to the U.S. District Court of New York.

[Signature] SEP 17 1975

MINUTES OF MARCH 14, 1975
(PLEA)

8a

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

ROBERTA WADDELL,

Defendant

73 CR 1025

United States Courthouse
Brooklyn, New York

March 14, 1975
10:00 a.m.

Before:

HONORABLE JOHN F. DOOLING, JR., U.S.D.J.

BURTON SULZER
OFFICIAL COURT REPORTER

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: DAVID De PETRIS, ESQ.
Assistant United States Attorney

PAUL ROONEY, ESQ.
Attorney for Defendant

1 MR. ROONEY: Your Honor, this is a two-count
2 indictment. With your permission, Mrs. Waddell would
3 like to plead guilty to Count One of the indictment.

4 I have conferred with her on a number of
5 occasions since the time of her arrest on August 1,
6 1973, and also with various representatives of the
7 Government. I am not aware of any meritorious defense
8 that can be asserted. I have gone over this case a
9 number of times with Mrs. Waddell. I have explained
10 to her the maximum penalty of 15 years imprisonment,
11 \$25,000 fine if there is a term of imprisonment, three
12 years special term of parole.

13 I have also advised her that she has a right to
14 go to trial and to have a trial in front of 12 jurors;
15 that in a criminal case the 12 jurors would have to
16 be unanimous in their decision to convict her. Never-
17 theless, she has advised me that she wishes to plead
18 guilty, and I ask permission of the Court for her to
19 plead guilty to Count One, which is the conspiracy
20 count in this indictment, your Honor.

21 THE CLERK: Is there a withdrawal of a plea of
22 not guilty?

23 MR. ROONEY: It is a withdrawal of a plea of not
24 guilty, yes, sir.

25 THE COURT: Mrs. Waddell, before accepting your

1 plea of guilty, I understand what Mr. Rooney has said,
2 but under the rule I must make sure personally that
3 you understand all of these things.

4 Now, the charge of Count One of the indictment
5 is that on or about and between January 1, 1973 and
6 August 1, 1973, both of those dates being approximate,
7 within the Eastern District of New York here, and
8 elsewhere, the defendant Armando Margolis and you,
9 together with others unknown, and unknown to the
10 Grand Jury, knowingly and intentionally combined,
11 conspired, confederated and agreed to violate Section
12 841(a)(1), which in general prohibits the manufacture,
13 sale or possession with intent to sell, of a narcotic
14 drug or other controlled substance, which can be a
15 narcotic drug, and Section 852(a), which deals with
16 bringing in such controlled substances from abroad
17 in violation of law, and Section 960(a)(1), which,
18 again, is related to the importation of controlled
19 substances, unlawfully, Title 21, United States Code.

20 It was part of the conspiracy that the defendant
21 and co-conspirators would knowingly and intentionally
22 import into the United States from South America quan-
23 tities of cocaine, a Schedule 2 narcotic drug controlled
24 substance.

25 It was further a part of the said conspiracy that

12a

1 the defendants and co-conspirators would knowingly and
2 intentionally distribute and possess with intent to
3 distribute substantial quantities of cocaine, a
4 Schedule 2 narcotic drug controlled substance.

5 It was further a part of said conspiracy that
6 the defendant and co-conspirators would conceal the
7 existence of the conspiracy and take steps designed
8 to prevent disclosure of their activities.

9 Now, that is the charge. Do you understand it?

10 THE DEFENDANT: Yes.

11 THE COURT: Has Mr. Rooney explained it to you?

12 THE DEFENDANT: Yes.

13 THE COURT: You are entitled under the law to
14 a public trial by an impartial jury. Do you understand
15 that?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: And at any such trial you are
18 entitled to the assistance of counsel, and if you
19 cannot afford counsel or can no longer afford counsel,
20 the Court would appoint counsel without cost to you
21 under the Criminal Justice Act.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: And at any such trial, if you stayed
25 with your plea of not guilty, the Government would

1 have to confront you in open court with the witnesses
2 on whose testimony it relied to obtain a conviction.

3 That is so that we could see that they were
4 cross-examined and if they were lying, but it would
5 give you the opportunity to face them down in open
6 court before the jury.

7 Do you understand that?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: If you go to trial on a plea of not
10 guilty, then you are entitled to have the Court issue
11 subpoenas to compel the attendants of those persons
12 whom you wish to have called as witnesses on your side
13 of the case.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: And at any such trial the Court must
17 and does instruct the jury that it may not convict you
18 unless satisfied of your guilt beyond a reasonable doubt.

19 Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: You have an absolute right to take
22 the stand and testify in your own behalf if you wish
23 to, but also you have your Fifth Amendment right not
24 to testify, not to be compelled to be a witness against
25 yourself.

1 If you decide not to testify, then you are
2 entitled to have the jury instructed that they may not
3 draw any inference unfavorable to you from your failure
4 to take the witness stand in your own defense, and
5 that they are not to discuss that matter at all.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: You must realize if you plead guilty
9 to Count 1 that you may not appeal. It will be just
10 as if the case had gone to trial and the verdict had
11 gone against you and you had appealed and lost on an
12 appeal.

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: And, as Mr. Rooney has explained, if
16 you do plead guilty you are exposed to the maximum
17 penalty provided by the law, which in the case of this
18 particular offense is a prison term of not more than
19 15 years, plus a special additional parole term of not
20 less than three years, and which can be as long as the
21 Court decides and which has the effect of extending the
22 length of time to which you could be re-committed to
23 prison, if you were once committed and released.

24 See, ordinarily, if one is sentenced for X years,
25 you are released before the years have expired, you

1 are on parole for the balance of X years.

2 Under this provision of law you are under parole
3 for this special additional parole term, and in the
4 case of a violation of parole can be re-committed for
5 the balance of the original term plus the additional
6 parole term.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: And that in addition, there is a
10 monetary --

11 MR. De PETRIS: \$25,000.

12 THE COURT: Is it \$25,000?

13 MR. De PETRIS: Yes.

14 THE COURT: Monetary fine not in excess of
15 \$25,000. And both can be exposed. Do you understand
16 that?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, that is your exposure. So you
19 understand that.

20 Now, are you over the age of 26?

21 THE DEFENDANT: Yes.

22 THE COURT: Are you entering this plea of guilty
23 voluntarily?

24 THE DEFENDANT: Yes.

25 THE COURT: Nobody has brought any pressure to

16a

1 bear on you, not family or co-defendants or co-conspirators or anyone?

2 THE DEFENDANT: No.

3 THE COURT: Have any promises been made to you
4 other than, I assume, Mr. De Petris, certainly that
5 on sentence day that Count Two will be dismissed?

6 MR. De PETRIS: Yes. There was one other
7 representation made to the defendant, that at the
8 time of sentence the United States Government would
9 advise the Court of the extent and nature of Mrs. Waddell's
10 cooperation in this investigation.

11 THE COURT: Which is expected?

12 MR. De PETRIS: Yes.

13 THE COURT: And I take it that that is a
14 consideration which induced her to -- her willingness
15 to plead?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. Nothing beyond that?

18 Any predictions been made to you about the
19 sentence that you expect? Because you must realize
20 that that depends entirely on the sentencing judge
21 and it is very largely determined by what is contained
22 in the pre-sentence report prepared by the Probation
23 Office.

24 Do you understand these things?

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THE WITNESS: Yes, I do.

THE COURT: Very well. Miss Waddell, did you do what is charged to you in Count One of the indictment?

THE DEFENDANT: Yes, sir.

THE COURT: That is, you did have some kind of an arrangement with Mr. Margolis with respect to bringing in cocaine to this country with the idea of making further distribution of it; is that right?

THE DEFENDANT: That's right.

THE COURT: And you knew that was against the law?

THE DEFENDANT: Yes.

THE COURT: And that it was cocaine?

THE DEFENDANT: Yes.

THE COURT: Very well. The plea of guilty to Count One of the indictment will be entered.

It is very important to make sure that everybody, employers, family, cooperate fully with the probation office in making sure that they get a full and fair description of you, your background and all the rest.

THE DEFENDANT: Yes.

THE COURT: All right. The sentencing date will be determined by the time when the probation report is read.

1 What are we running now, six to eight weeks?

2 THE PROBATION OFFICER: Yes, sir. We are trying
3 to get it down to six, but it varies between six and
4 eight.

5 THE COURT: It will be somewhere in that area.

6 MR. ROONEY: May bail be continued here, your
7 Honor?

8 MR. De PETRIS: The Government has no objection.

9 THE COURT: The present bail conditions will be
10 continued until sentence day.

11 (Time noted: 10:20 a.m.)

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MINUTES OF MAY 9, 1975
(SENTENCE)

19a

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 - - - - -

4 UNITED STATES OF AMERICA

5 -against-

: 73-CR-1025

6 ROBERTA WADDELL,

7 Defendant.

:

8 - - - - -

9 United States Court House
10 Brooklyn, New York

11 May 9, 1975
12 10:10 o'clock a.m.

13
14 Before:

15 HONORABLE JOHN F. DOOLING, JR., U. S. D. J.
16
17
18
19
20
21
22

23 ARLYNE SEGAL
24 ACTING OFFICIAL COURT REPORTER
25

1
2 A p p e a r a n c e s :

3 DAVID G. TRAGER, ESQ.,
4 United States Attorney
5 for the Eastern District of New York

6 BY: DAVID DEPETRIS, ESQ.,
7 Assistant United States Attorney.

8
9
10 PAUL ROONEY, ESQ.,
11 Attorney for Defendant.

12 * * * *

1 THE CLERK: For sentence, U. S. A. vs.
2 Roberta Waddell.

3 THE COURT: Mrs. Waddell, do you wish to have
4 Mr. Rooney represent you on this sentencing pro-
5 cedure here this morning?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Mr. Rooney, is there any reason
8 why sentence should not now be imposed?

9 MR. ROONEY: No, your Honor.

10 THE COURT: Do you have anything to say be-
11 fore sentence is imposed?

12 MR. ROONEY: Yes, your Honor.

13 Your Honor, I have had an opportunity to read
14 the presentence report.

15 I have also had an opportunity to represent
16 Mrs. Waddell for a long period of time. I have
17 conferred with her literally dozens of times during
18 the course of this case.

19 In essence, I would like to say a couple of
20 things. I would like to incorporate everything that
21 I have read in the presentence report, I would urge
22 your Honor not to sentence Mrs. Waddell to jail.

23 She is a good, decent human being and has
24 been one for forty years.

25 I am concerned about Mrs. Waddell's case. And I think

1 everybody concerned with this case is very concerned
2 about Mrs. Waddell. She has two daughters; one who
3 is twelve and the other seventeen, who are entirely
4 dependent upon her. She did cooperate with the
5 Government but Margolis is still at large.

6 I do not for one second depreciate the serious-
7 ness of this situation. There are two points that
8 I would like to stress to your Honor. Those are
9 two points which I disagree with the presentencing
10 report on.

11 The first one is the part that has
12 to do with Margolis. She was really under Mar-
13 golis's influence. Her role was not one of equal
14 importance. Her role was a small one.

15 I have information that bears out the fact
16 that Margolis is truly a Svengali type of charac-
17 ter. Of course, she was entirely ripe for somebody
18 like Margolis. At that time she was recently di-
19 vorced. She was driven emotionally.

20 He had an almost unbelievable influence on
21 her. She had only a small part in this cocaine

22 operation. Margolis has affected other women too. That can
23 be seen from the arrest of Patti/ Bennett in Paris, France.

24 He just seems to have some
25 type of power, that type of effect on very impres-
sionable type of women.

1 The other point is, she owes \$19,000 in loans.
2 It is true that she has a wonderful father-in-law
3 who gives her money each month.

4 She did testify before the grand jury. She
5 did make this one mistake in her life. Her back-
6 ground is one of insecurity. She has had three or four
7 different fathers. She never really had a true
8 family situation to grow up in.

9 I am not a psychiatrist. There is no way
10 I can tell you why she did the things that she did.
11 Here is a woman who is totally negative throughout
12 her life. She may be unconventional, that is, living un-
13 conventional at this point. But it seems to work.
14 The last two years, your Honor have been a living
15 nightmare for this defendant.

16 First of all, she has driven a cab for a
17 living. She has had a very difficult time making
18 a go of it. She has developed as a woman and as a
19 mother and as an overall person.

20 At this time she finds herself in a position
21 that is totally different from the position she was
22 in two years ago, with regard to the Margolis.
23 situation. Margolis wound up with all the money.
24 This defendant wound up with virtually nothing.

25 THE COURT: She went to a well known college.

1 MR. ROONEY: But she worked her way through.
2 This defendant has reformed herself completely. I would
3 say to Your Honor, that Mrs. Waddell should be treated as a
4 reformed alcoholic. I would ask your Honor, to try not
5 to send her to jail. This is a terrible mistake which
6 she certainly regrets. She has matured greatly in the
7 last two years.

8 MR. DEPETRIS: I just want to make sure the
9 record is clear that Mrs. Waddell cooperated fully
10 with the Government. She testified in the grand
11 jury after the importation of this particular ship-
12 ment of cocaine involving Margolis, Armando Margolis.
13 And she does stand ready to testify if Mr. Margolis
14 is ever apprehended.

15 THE COURT: Mrs. Waddell, is there any reason
16 why sentence should not now be imposed this morning.

17 THE DEFENDANT: None that I know of.

18 THE COURT: Is there anything you wish to
19 say with respect to sentence before it is imposed?

20 THE DEFENDANT: There are a few words that
21 I would like to say.

22 Your Honor, I feel that I have learned a lot.
23 Mr. Rooney has covered most of the relevant points
24 in his representation to your Honor.

25 THE COURT: This is an unrelated incident in
your life.

1 THE DEFENDANT: Your Honor, I have really and
2 truly gotten myself together. I really don't know
3 how I will be able to handle jail. I would have
4 been able to cope with jail twenty-one months ago.
5 That is almost two years ago. I have spent two
6 years rehabilitating myself. It would be more
7 difficult for me to go to jail today than it would
8 have been two years ago. The life that I have been
9 living is totally different from the life I was
10 living twenty-one months ago.

11 I am under a lot of financial obligations.
12 I believe that everything in life happens for a
13 reason. I feel that there was a reason that this
14 happened to me. I am a very stubborn and headstrong
15 person. I have been very hotheaded. It was almost
16 necessary for me to learn the lesson that I have
17 learned. It has taught me a lesson.

18 THE COURT: That is obvious.

19 THE DEFENDANT: I really feel that I have
20 learned a terrible lesson. I feel that I am now on
21 the right. I want to lead a valuable and good life.

22 Much time has elapsed throughout this case.
23 In that time I have been trying to rebuild my shat-
24 tered life. I have been trying to rebuild my shat-
25 tered life.

1 There are so many different things that have
2 happened to me. I had so much living to do. So
3 much has happened to me since the spring-summer of
4 1971.

5 Frankly, those events that occurred at that
6 time seem very remote and distant to me. They are
7 horrible. They are morally wrong.

8 I have totally changed my life. My life
9 style has changed totally since the spring and summer
10 of 1973. I really was better prepared for the sen-
11 tence ~~two~~ years ago. I do not know how I will cope
12 with going to jail at this time. I don't know what
13 I will do. I don't know how I am going to be able
14 to handle this.

15 I have been trying to improve myself. I have
16 been trying and have been able to support my two
17 daughters, who are now without a father. They would
18 be completely up in the air, if I were to go to jail.

19 That is all I have to say. I would just like
20 to repeat what Paul said about the money. I do owe
21 that money. The one sum of money that I have left
22 is my bail bond.

23 Besides everything else, I went broke. And
24 I owe one party \$19,000. That money would be a
25 tremendous toward starting to repay back some.

27a

1 I would very much like to be able to repay that sum.
2 I would like to be able to repay it.

3 That's about all I have to say, your Honor.

4 THE COURT: This is an impossibly difficult
5 sentence, as I am sure we all recognize.

6 I suppose in retrospect there is a remoteness
7 about most of the sentences that judges have to
8 impose. They are usually imposed on people of a
9 kind he has never come in contact with. They come
10 from low levels of society. He knows nothing about
11 them except what he reads in a presentence report.

12 And when someone like you comes before a judge,
13 you know that you are talking to a person whose com-
14 prehension is at least the equal of your own.

15 That person has a sense of responsibility to
16 our society and to their families similar to our own.

17 There isn't any scale of values that you
18 could have learned at Smith, or anywhere else, in
19 your whole life that could have tolerated this kind
20 of thing. That is what is such a horrifying part
21 of it.

22 I am sworn into the system of law that the
23 Constitution has established for us.

24 I have sentenced, and never without pain,
25 many people to prison on drug charges.

1 Do you know that we have to sentence to prison
2 creatures from Colombia who come up with one kilo
3 of cocaine in their girdles, tied around their waists,
4 who have been paid \$500 to come to this country
5 with that cocaine. And that is more money than they
6 have ever seen in their lives before.

7 They are caught. They are caught because
8 of --

9 THE DEFENDANT: I met one.

10 THE COURT: Almost invariably, I guess, and
11 they are sentenced to prison.

12 THE DEFENDANT: I helped translate for one
13 of them.

14 THE COURT: As you must see and as you must
15 explain to your children, I have no other alterna-
16 tive but to sentence you to prison. I cannot put
17 you on probation. It would be violating the
18 temples of justice to do it.

19 Now everything that has been said here has
20 been taken into account in mitigation here. You
21 must realize that no commission of a crime is with-
22 out a history of a bad background. That goes back
23 to Adam. It goes back to the date of birth, yours
24 mine, everybodys. And what you have done in your
25 eloquent profile of how it came about is to explain

1 with splendid candor what it is to commit a crime.
2 But that doesn't explain it.

3 Don't you understand that you must you must
4 make clear to yourself, to your children parti-
5 cularly that you are not a victim. That there isn't
6 anything shameful about going to prison.

7 What is shameful is to do that for which one
8 is sent to prison. That is irrelevant, that you
9 claim wounds that have been inflicted on your
10 daughters. Only by doing your job of making it
11 plain to them that you left society will you be
12 able to help them.

13 I have no other alternative but this. It
14 would be wonderful for me if I could put everyone
15 on probation. Maybe in some bright future there
16 will be better ways of handling these things, more
17 compassionately, more sensitive ways. But,
18 God help us, we know no better way to do it. I
19 don't know a better way.

20 I myself have four daughters and this is one
21 of the most difficult days of my life. But it is
22 only because when you, and people like you do it,
23 We come face to face with what it is that we do when
24 we get people from lower income classes, from the
25 poverty culture because it is just the same. They

1 have to leave children. They too usually have wives.
2 They too have dreams. And they too have excuses.

3 What I am about to impose on you is what is
4 called an indeterminate sentence under which the
5 Board of Parole has the power to release you im-
6 mediately or as soon as possible.

7 Everything ~~that~~ is in your sentence folder
8 goes to them. And Mr. Rooney, I am sure, will see
9 that the transcript of the sentencing proceeding is
10 ordered so that everything that has transpired here
11 goes with it, which proves that as well. All of
12 the matters will be before the Parole Board.

13 But I should say to you also that the sentence
14 that is being imposed, although it must seem to you
15 shockingly heavy and beyond belief, is much less than
16 would be imposed but for the positive factors brought
17 out by Mr. DePetrìs, who has said what he has said.
18 And what has been said by Mr. Rooney in your behalf.
19 And above all, what Mr. Waddell has said on
20 your behalf. Because coming from him after this
21 long history is of course enormously important and
22 that goes, too. It is part of your sentence folder.

23 On your plea of guilty on Count 1 of the
24 indictment, you, Roberta Waddell, are committed to
25 the custody of the Attorney General of the United

31a

1 States or his duly authorized representative, who
2 shall designate the place of confinement for a term
3 of five years pursuant to Title 18C, United States
4 Code, Section 4208(a)2.

5 You will become eligible for parole at such
6 time as the Poard of Parole may determine here.

7 MR. ROONEY: Your Honor, could we adjourn
8 the surrender date for two weeks?

9 MR. DEPETRIS: I have no objection your Honor.

10 THE COURT: Execution of the sentence is
11 stayed for a week. And the defendant must surrender
12 herself to the United States in this building before
13 two a.m. on May 23rd.

14 MR. ROONEY: Your Honor, is it possible to put
15 off the surrender date until the children finish
16 school?

17 THE DEFENDANT: The 17-year-old is going to
18 graduate. Both of my daughters will be going to
19 camp at the beginning of July.

20 MR. ROONEY: Is it possible to make the sur-
21 render day July 3rd?

22 MR. DEPETRIS: I have no objection, your Honor.

23 THE COURT: July 3rd at two p.m. The execu-
24 tion of the sentence is stayed until that date.

25 MR. DEPETRIS: Your Honor, I will dismiss

1 the court that still remains pending
2 against the defendant at that time. The Government
3 will dismiss Count 2 pending the surrender of Mrs.
4 Waddell.

5 THE COURT: You take care of that.

6 MR. DEPETRIS: As soon thereafter as possible,

7 MR. ROONEY: Thank you.

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RULE 35 MOTIC AND AFFIDAVIT

33a

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

ROBERTA WADDELL,

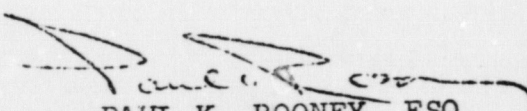
Defendant.

NOTICE OF MOTION

73 Cr. 1025 (JFD)

PLEASE TAKE NOTICE that, upon the affidavit of Paul K. Rooney, Esq., sworn to on the 8th day of August 1975, the defendant Roberta Waddell will move this Court, the Hon. John F. Dooling, Jr., at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on the 21st day of August 1975 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for an order, pursuant to Rule 35 of the Federal Rules of Criminal Procedure, reducing the sentence of five years' imprisonment heretofore imposed on Roberta Waddell, and for such other, further and different relief as to the Court may seem just and proper.

Dated: New York, New York
August 8, 1975


PAUL K. ROONEY, ESQ.
Attorney for defendant Waddell
521 Fifth Avenue
New York, New York 10017
(212) 682-4343

TO: DAVID A. DePETRIS, ESQ.
Assistant United States
Attorney
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

AFFIDAVIT IN SUPPORT OF
MOTION TO REDUCE SENTENCE

73 Cr. 1025 (JFD)

Defendant. :

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

PAUL K. ROONEY, ESQ., being duly sworn, deposes and says:

1. I am a member of Rooney & Evans, attorneys for defendant Roberta Waddell, and submit this affidavit in support of the annexed motion for a reduction of sentence, pursuant to Rule 35 of the Federal Rules of Criminal Procedure. Unless otherwise stated, the statements made herein are alleged upon information and belief.

History of this Case

2. On March 14, 1975 defendant Waddell pleaded guilty to a one-count charge of conspiracy to import cocaine. Following the completion of a Pre-Sentence Report, on May 9, 1975 she was sentenced to five years' imprisonment. She surrendered on July 7, 1975 and is currently serving her sentence at the Federal Reformatory for Women in Alderson, West Virginia.

3. Defendant Waddell was arrested on August 1, 1973 during an unsuccessful attempt to import cocaine at J.F.K. Airport. Following this arrest and my retention, she cooperated with various agents of the United States Customs Department and with the Office of the United States Attorney for this district. Indeed, she was interviewed several times by several different agents and testified in the grand jury in support of the instant indictment against herself and Armádo Margulis. The latter has not yet been apprehended.

4. In the intervening period of almost two years, there were several important changes in the life of Roberta Waddell. Her ex-husband died on February 6, 1974. Because of this and her desire to become gainfully employed, she obtained a job as a saleslady and trouble-shooter with Antonoff Enterprises, Inc., a small company engaged in the distributing of various goods, including apparel. As can be seen from a recent letter from Milton Antonoff (Annexed as Exhibit A) she was a good worker. Mr. Antonoff states:

"Bobby went far beyond the call of duty; if an account wanted help, physically counting inventory, storing, doing anything that could service the account, Bobby would pitch in. Bobby's day was to end at 5 - 5:30 P.M. There were a number of nights that Bobby remained at accounts locations until mid-nite breaking her back.

Bobby Waddell is a most unusual person. One day a supplier invoiced for an amount that was less than what was given to us. Upon recognizing the error she phoned the source to advise them of their mistake. She is a stickler for exactness and honesty."

5. Unfortunately, the Pre-Sentence Report--given to the Court prior to sentencing--contains several errors. While some of the mistakes may not be all that important, others are clearly significant and must have had some weight in the shaping of the Court's decision to sentence this defendant, despite her cooperation with the Office of the United States Attorney and the United States Customs Department, to imprisonment for five years. Of primary importance is the following statement on page 25 of this report:

"While codefendant Margulis was undoubtedly part of her life during the period of the offense, her extremely active participation in all phases of the smuggling and sale of the drugs by her own admission makes Margulis a secondary participant."

Frankly, there is no basis for this conclusion. Neither the investigatory agents nor the prosecutors--given my conversations with them--has ever believed that defendant Waddell was the ring leader or primary participant. Armando Margulis was very definitely the master-mind. It was he who arranged the South American trips, who had the contacts (there and in California), and who had the associations with the suppliers and other couriers, e.g., Patty Bennett.

6. On pages 7 and 9 the report states: "She also delivered some of the drugs to California." This is absolutely incorrect. (I understand that the Probation Department has conceded that this is not true and this statement has been deleted from the report.)

On page 3, the report states: "Defendant became involved in a scheme to promote a film produced by a Canadian Motion Picture Company." While Mrs. Waddell did invest in a film, there is no basis for the characterization of the project as a "scheme." The production was an open and honest business transaction.

7. The report also very much distorts this defendant's upbringing and financial picture. Suffice for it to say that she has no money; was certainly not reared under "secure financial conditions (page 11); gets \$306.40, not \$1,000.00, per month from Social Security (page 23); and owns only a car, not a home as stated on pages 23-24. In fact, were it not for the generosity of her father-in-law, this defendant's two daughters would have virtually no means of support.

The 'A-2' Sentence

8. At the sentencing on May 9, 1975 the Court stated that, pursuant to 18 U.S.C. 4208(a)(2), it was imposing "an indeterminate sentence under which the Board of Parole has the power to release you immediately or as soon as possible." The "(a)(2)" sentence, however, will not result in any early release. See United States v. Slutsky, 514 F.2d 1222, 1230 (April 18, 1975). There, Judge Moore pointed out that:

"Thus, from the standpoint of an opportunity for early release, the (a)(2) prisoner is in no better position than a prisoner who has received a regular sentence." 514 F.2d 1229.

The Appendix attached to this opinion reveals that the instant

offense rates "Very high". Thus, even assuming that defendant Waddell rates a "Very good" under the Parole Prognosis, she will serve, according to this guideline, under the present sentence at least 26 months and up to 36 months.

Family Situation

9. As is not unusual in cases of this nature, the people who will suffer the most are this defendant's immediate family, namely her two daughters, ages 17 and 12. Although Karen, the 12-year-old, is away at camp, she will return home shortly to a rudderless house. The absence of any parental supervision could well be traumatic to this child. Sandy, the 17-year-old, is at an extremely precarious state in her young life and has all she can do to handle herself: she is simply not equipped to provide any meaningful guidance to her younger sister. While the defendant's step-brother is residing at her apartment, this is obviously only a temporary situation and not a good one. (Indeed, deponent has been informed that he wants to get married and commence his own family in his own home.) These children have already had a difficult enough childhood, ridden with turmoil, and frankly deserve better. They desperately need to have their mother with them. This is not to suggest that the instant crime does not warrant punishment; it does. But the interests of these children must also be considered, and those interests are perhaps of paramount importance. Moreover, hasn't this defendant been punished enough? She made nothing out of this crime and has lived a life of anguish since her arrest two years ago.

The Motion

10. Defendant Waddell, who has not been imprisoned over a month, has forwarded me a letter to you which is annexed as Exhibit B. As you can see, she is very much concerned about the children, especially her 12-year-old, and truly recognizes the errors of her ways. Her promise never to stray from the lawful path is undoubtedly sincere. We recognize that the Court should impose a sentence commensurate with the severity of the crime and with those sentences given to other defendants for a similar violation. But, unlike other defendants, this defendant did cooperate and render assistance to the government in its effort to apprehend Armando Margulis, the major participant in the crime. (Margulis ran off with all the money.) In fact, after paying off the assessment which the I.R.S. has ordered, she will have lost a great deal of money in this endeavor. It is respectfully submitted that defendant Waddell has learned her lesson and paid the price during the periods of her cooperation and incarceration and should not be incarcerated for two to three years but should be released now from jail to rejoin her family and return to her job.

WHEREFORE, it is respectfully submitted that defendant Waddell's motion to reduce her sentence of five years' imprisonment be granted in all respects.

40a



PAUL K. ROONEY
ROONEY & EVANS
Attorneys for defendant Waddell
521 Fifth Avenue
New York, New York 10017
(212) 682-4343

Sworn to before me this
8th day of August 1975.

Evelyn Fans

EVELYN FANS
Notary Public, State of New York
No. 41-1159768
Qualified in Queens County
Commission Expires March 30, 1977

MINUTES OF AUGUST 21, 1975
(RULE 35 MOTION HEARING)

41a

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA :

-against- :

ROBERTA WADDELL, :

Defendant. :

73-CR-1025

-----X

United States Courthouse
Brooklyn, New York
August 21, 1975

B E F O R E:

HONORABLE JOHN F. DOOLING, JR., U.S.D.J.

RAYMOND P. STALKER
ACTING OFFICIAL COURT REPORTER

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A P P E A R A N C E S:

DAVID G. TRAGER, ESQ.,
United States Attorney
BY: ETHAN LAVAN-EPSTEIN

PAUL ROONEY, ESQ.,
Attorney for the Defendant

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THE CLERK: Rule 35 motion, Roberta Waddell.

MR. ROONEY: Good morning, Your Honor.

THE COURT: Good morning, Mr. Rooney.

Yes sir?

MR. ROONEY: Your Honor, I've made this motion to reduce and Mr. Epstein is covering for Mr. DePetris.

Mrs. Waddell started serving a five year sentence about a month and a half ago.

THE COURT: I don't think the other count in the indictment has been dismissed.

MR. LAVAN-EPSTEIN: That's correct, Your Honor.

THE COURT: I think so.

MR. LAVAN-EPSTEIN: I'll have to check the file.

THE COURT: Could you check?

MR. LAVAN-EPSTEIN: Certainly.

MR. ROONEY: I think the other counts were to be dismissed when she surrendered.

THE COURT: Yes.

MR. ROONEY: Judge, Mrs. Waddell surrendered about a month and a half ago to the old penitentiary in West Virginia and is serving her sentence and apparently she has made a great adjustment. If there is any doubt about this, the Court -- I would ask the Court to look at the progress report from the institution.

1
2 Very bluntly, Your Honor, I know -- I don't have
3 a lot of time this morning, I'm here today on behalf
4 of the two daughters, 12 and 17.

5 I've made this motion primarily, primarily on
6 their behalf because of the life of me, I don't know
7 what's going to happen. It's the truth. They worked
8 out some family type of arrangement here and they have
9 a wonderful grandmother and grandfather who's been very
10 good. There is no real father alive anymore and there
11 is a stepbrother and they've made some family arrange-
12 ments and accommodations for living with the children
13 who are ages 12 and 17.

14 But he has his own plans for his own life and this
15 is on the overall not a good situation.

16 I don't know what is going to happen to these
17 children and I think it is important, despite the pre-
18 sentence report, Your Honor, Mrs. Waddell was not the
19 primary participant in the act. Despite the pre-sen-
20 tence report I think -- she didn't deliver any drugs.
21 She certainly didn't flee out to California with any
22 drugs.

23 THE COURT: I think most of those were corrected
24 at the time of her sentence.

25 MR. ROONEY: I don't think at the time of senten- ✓

1 cing, Your Honor, after the sentence.

2 The fact that the presentence report recites that
3 she flew out to California with a quantity of Cocaine
4 and that has been corrected and what is more important
5 was she was not the primary participant.
6

7 I would like to quote the applicable language in
8 Page 3 of my affidavit.

9 Overall, I would like respectfully to submit the
10 pre-sentence report depicting this defendant Waddell
11 as not the primary participant. She has in fact lost
12 a great deal of money, especially in view of the fact
13 that the Internal Revenue Service has moved against
14 her, mainly over this film. She doesn't have the money
15 to pay this. She'll have to come up with it somehow.
16 She lost a great deal of money as it stands and she's
17 going to be in prison from two and a half to three
18 years under this sentence.

19 I know you gave her a two year sentence, but I
20 must scrutinize that and point out that it doesn't seem
21 to me to be much of a --

22 THE COURT: I must disagree with that.

23 It carries a lot of weight with the prison authori- ✓
24 ties.

25 It is perfectly true that in an effort to bring

1 about this sort of a sentence I think everyone agrees
2 and I am not entirely unfamiliar with the sentencing
3 procedures and the uniformity in custodial treatment,
4 but what you might call individual appropriate treat-
5 ment. Custodial treatment which would take into account
6 among other things the gravity of the offense. The
7 previous history of the Federal system in granting
8 parole, the guidelines seems to set up a rigidity of
9 structure which appears to me, for example, a single
10 such case as this to a level of gravity which is usually
11 visited with or usually followed by imprisonment for
12 a period of some months, some many months.

13
14 There are various scales of evaluation from a
15 guideline point of view and it falls in and is modified
16 by the background factors, first offender and all those
17 things which do have a modulating effect on the appli-
18 cation of the guidelines.

19 In addition to that there is an overall responsi-
20 bility of the parole board under the statute to consider
21 matters which make it a case for early release. And
22 those of course include whether or not there is compati-
23 bility with the interest of society.

24 Whether her release would be accompanied by a
25 very low probability of return to criminal activity and

whether the person to be freed has a landing place.

If she has a place to go and a place in society to resume.

Now all of these things are mandatorily trained on the parole considering mind and that's what the (a) (2) sentence is suppose to do, but under the decisions in this thinking I think we will see increasingly in other Courts, particularly under our present chief of parole, I forgot what his name is, Mr. Zeigler is in charge of the entire parole system and has regionalized and done other things of that sort.

I think we can, with some confidence, expect that things like (a) (2) sentence is well aware of the appropriate effect which it impowers.

I'm sure the parole authorities in this case, to release the person who is imprisoned can release her literally at any time.

Now on a July surrender I would question whether the first parole interview has yet taken place.

I think it could be expected late August, maybe not.

MR. LAVAN-EPSTEIN: Generally they shoot for 30 days after entry.

THE COURT: I think it's been running close to

1
2 six weeks or eight weeks or six.

3 MR. ROONEY: I'm not sure.

4 THE COURT: I'm sure it varies from each region
5 and from each institution but at that time I think the
6 person gets the first comprehension of what the general
7 contour of the parole treatment is likely to be because
8 the next thing I think is that it isn't a situation
9 which for some reason parole is granted at once. It
10 is set off to a new or always definite date. Unless
11 it is set over to the maximum mandatory release date,
12 that is done occasionally. Where the sentence is a
13 judgement by the parole people, one which in the minds
14 of the parole people have the gravity and the offense,
15 if the man has been sentenced for 18 months for a bank
16 robbery, armed bank robbery in which someone is not
17 shot to death, but this charge is a firearm and certainly
18 they wouldn't give you two minutes of consideration on
19 a (a) (2) sentence.

20 Apart from that and unfortunately they use to
21 characterize that sort of situation in which they just
22 say flatly that the sentence is inadequate as to the
23 gravity of the offense.

24 The maximum sentence does not express the gravity
25 of the offense. What they really mean is that the

1 ceiling has been set and the exercise of our discretion,
2 the sentence is so low as to practically exclude any
3 fair consideration of this case from the parole point
4 of view.
5

6 Now in such a case as the present one, I think
7 there are perhaps fears that might be some such reaction
8 as that.

9 But, don't you see what you're saying when you
10 said that, that this is such an offense.

11 Now, I think that one of the desperate parts of
12 this case is that when you get strong representation
13 of the defendant who is a highly literate defendant,
14 you see in one case a summary of every criticism that
15 is made of our current system with the administration
16 of the criminal justice.

17 It is total inadequacy because if you stop and
18 reflect there is not one thing that has been said on
19 her behalf that isn't equally true for every person who
20 is sentenced to prison. That first and foremost, the
21 people who are most terribly punished by imprisonment
22 are the innocent because they merited no punishment at
23 all.

24 MR. ROONEY: There is one thing --

25 THE COURT: They are punished by the imprisonment.

1
2 You most often have a father and has the support
3 of the family. It means welfare, abject poverty.

4 MR. ROONEY: Your Honor, this is one thing which
5 I think is a distinguishing factor, the cooperation.
6 She spent over two years being interviewed at various
7 times by various agents.

8 I think it is a distinguishing factor.

9 The disparity and the uniformity is a problem and
10 it is an ongoing problem but in view of all the coopera-
11 tions, a five year sentence for somebody that coopera-
12 ted, Your Honor, is too much, most respectfully.

13 THE COURT: I wish I could agree with you. There
14 is nothing as you know that would please me more than
15 to be able to grant probation to everybody.

16 But, we have cooperation cases that you know the
17 entire system of the administration of criminal justice
18 depends on and pleas also. Most sentences far and
19 away are sentences rooted in cooperation.

20 MR. ROONEY: But five years?

21 THE COURT: Even that, when you say but five years,
22 it isn't five years in the first place.

23 I don't know what her mandatory release card will show,
24 but her mandatory release date is much less than five
25 years. That much is certain.

Her parole eligibility date is an ambulatory date.

MR. ROONEY: Judge, may I reply just to that.

I must respectfully disagree with Your Honor for this reason.

The Bureau of Parole, this (a) (2) sentence does not mean anything. I found this out a year ago, they always take the position --

THE COURT: An (a) (2) sentence does not mean an early release is mandatory.

MR. ROONEY: That's correct.

THE COURT: And it was never intended to mean that.

It must not mean that.

And that I think is what the principal complaint has been.

MR. ROONEY: On this point I don't see any provision for an (a) (2) factor. They don't seem to take the position that --

THE COURT: You see, on many of the guideline cases for example and almost a standard sentence for armed bank robbery is 15 years or 20 years, 15 to 20 years on bank robbery.

Now if that is an (a) (2) sentence it does make a very material difference because it does not give play, room for play for the background factors which

1
2 modify the applications at the top of the column as
3 indicated. It modifies the application of the minimum
4 mandatory parole eligibility date. If you are in for
5 20 years, the minimum date for consideration would be
6 over six years and therefore the (a) (2) sentence
7 definitely functions.

8 Now here the (a) (2), if you will, I said here is
9 present, it should function and I am not going to sit
10 in judgement on the parole board and say that the board
11 of parole does not responsibly perform its duties under
12 Section 4208 (a) (2) and the parole eligibility section
13 itself which sets the date of release --

14 MR. ROONEY: Judge, as I see this, the (a) (2)
15 sentence at most can put her under a different prognosis,
16 it may switch her from a good to a very good prognosis.

17 THE COURT: No, because you see at that point if
18 you want to go over the table, then it becomes a special
19 case.

20 Those are not mandated in the parole minds, but
21 what they do in effect is require a showing beyond the
22 factors taken into account. The modulating factors and
23 the table and where those factors are present.

24 Then the parole board examiner is expected to deal
25 with them.

1
2 Now those would have of course included extraor-
3 dinary prison performance. Because as you know a number
4 of special types of -- there are a number of special
5 imprison activities which can result in the grant of
6 special consideration.

7 MR. LAVAN-EPSTEIN: Your Honor, Mr. DePetrus has
8 asked me to appear for him this morning and he has
9 written to me certain notes that he wants me to express
10 to the Court and place on the record for the Court's
11 consideration prior to ruling on this motion for reduc-
12 tion of sentence.

13 THE COURT: Yes?

14 MR. LAVAN-EPSTEIN: In substance Mr. DePetrus said
15 that he will coincide with Mr. Rooney to the extent that
16 Roberta Waddell cooperated with the Federal Government
17 in the sense that she testified before the Grand Jury
18 and even to this day has indicated her desire and willing-
19 ness to testify at the trial of the co-defendant Margolis
20 at the time he is apprehended and brought before the
21 Court.

22 According to Mr. DePetrus, Mr. Margolis was the man
23 who was the connection and the distributor and chief of
24 the network in this matter and apparently Mrs. Waddell
25 was giving money for the importation of the Cocaine.

1
2 According to Mr. DePetris, Margolis talked Mrs.
3 Waddell into giving money to him to finance the impor-
4 tation of Cocaine.

5 She kept the books of the transactions and assisted
6 in the importation itself.

7 However, it is in the opinion of the office of
8 the United States Attorney that Mr. Margolis is the
9 more capable party in this matter.

10 THE COURT: I have assumed as much.

11 MR. LAVAN-EPSTEIN: I'm merely pointing out to the
12 Court, you see, I am not aware of whether or not you
13 are aware of these things or not.

14 Your Honor has according to Mr. DePetris, there
15 was some disagreement as to the accuracy of the pre-
16 sentence report and the factual circumstances herein
17 and Mr. DePetris merely wanted to clarify the record
18 at this juncture what the office of the United States
19 Attorney's opinion is.

20 As far as the investments that were discovered in
21 Canada and the industries in Canada, as far as we are
22 concerned the businesses were legitimate and there was
23 no illegitimacy at that time.

24 Mr. DePetris would stress, had he be here, what
25 he believes to be a significant part of these comments.

1
2 Although she has already been sentenced, on her plea of
3 guilty, Mrs. Waddell indicated a willingness to testify
4 at a later time should her co-defendant be apprehended
5 and brought before this Court.

6 In other words, a continuing cooperation beyond
7 and above the areas of testifying before the Grand Jury.

8 MR. ROONEY: In view of Mr. Lavan-Epstein's summary,
9 I ask the Court to reduce the sentence and I know we
10 have to take into consideration all the circumstances.
11 It is properly true and putting everything into focus,
12 every case is individual. I am sure there are other
13 cases where there are defendants that had family pro-
14 blems, so it be. Other judges have taken that into
15 consideration and this defendant definitely has diffi-
16 culties with the family. She has two teen-age daughters.

17 I'm not saying she shouldn't, but Your Honor, may-
18 be you should consider an alternative, let her serve
19 weekends for a number of years so she is present in the
20 home. Since 1972 she has been involved in this. This
21 woman virtually went through every extent to cooperate
22 and she pleaded guilty, she would have been better off
23 to go to jail, she would have been in a much better
24 position, most of this would have been behind her.
25 She waited these two years at the risk of the Government.

1
2 I urge Your Honor, because she did cooperate and
3 she did wait those two years and the rehabilitation of
4 her, I don't think it is a question --

5 THE COURT: Let me think, in light of what the
6 Government has said.

7 Now, then there is the second aspect of this and
8 that is an omission from the judgement of the special
9 additional parole term.

10 Now it is my recollection, although I believe that
11 this is or isn't -- there is no transcript of the plea
12 proceeding?

13 MR. ROONEY: Of the plea, I have the transcript
14 of the sentencing.

15 THE COURT: Yes?

16 MR. ROONEY: I haven't ordered the plea.

17 Your Honor, according to the judgement and commit-
18 ment, there is no imposition of a special parole term.

19 THE COURT: That's right. That was brought out
20 at the time that Mrs. Waddell pleaded.

21 Ordinarily at the time of the taking of the plea,
22 we were under Section 842, weren't we?

23 MR. LAVAN-EPSTEIN: 842 of title 21, Your Honor,
24 according to the indictment, Your Honor, the defendant
25 was charged with the conspiracy. That would be Section

846 of title 21.

THE COURT: Yes, 846. There is a mandatory parole, special additional parole term of at least three years.

MR. LAVAN-EPSTEIN: When a jail term is imposed.

THE COURT: When a jail term is imposed.

It is my ordinary practice to explain that because it is not easy to explain. The defendant is aware of it at that time.

Now, it is a mandatory inclusion in the sentence and the prison authorities I believe, we sent to you a copy of a letter from the Bureau of Prisons from Alderson. What was the consequences?

MR. ROONEY: Judge, I have my notes. They don't have any indication whether it went into that. I just don't remember, Judge.

Wasn't there a reporter here to cover that?

THE COURT: Oh, yes, but ordinarily the plea is not transcribed.

Here it wasn't done.

There is always a reporter here in the Courtroom on a criminal case.

I have to consider that, because it is a mandatory inclusion and it has to be put in.

1
2 However, if it could not, in the presence be any-
3 thing other than the mandatory minimum, because if you
4 do anything else it would increase the sentence and
5 that is out of the question, for a hundred reasons
6 and institutional and otherwise,

7 So that I do have to consider that and I had hoped
8 the United States Attorney would look up the law for me.

9 MR. LAVAN-EPSTEIN: What is specifically Your
10 Honor's question?

11 THE COURT: Well, what happens because I know that
12 some years back shortly after Judge Roslin's death,
13 one of his sentences came to me on a motion to reduce.

14 When I looked at the judgement I saw that he did
15 not include the mandatory special additional parole
16 term.

17 The plea minutes were available as well as the
18 sentence minutes and neither of them could be said to
19 have disclosed that.

20 It was one of the few cases in which Judge Roslin
21 missed that point.

22 It was in the very same case, he explained to the
23 other defendants and omitted that in the case of the
24 other defendant.

25 Now, that case I concluded what I had to do was to

1
2 re-sentence him to a term that did not exceed the prison
3 term that he imposed which I think was six or seven years.
4 It did not exceed a certain number of years in prison.

5 Plus, the special additional parole time which was
6 in effect to give the man a three year reduction in his
7 mandatory release state. That I felt I had to do,
8 otherwise it would be increasing the sentence.

9 That is what I am concerned with?

10 MR. LAVAN-EPSTEIN: I meant to point out, Mr. Ber-
11 man of the appeals section is more familiar with the
12 matter than anyone else.

13 THE COURT: Would you do that?

14 MR. LAVAN-EPSTEIN: Certainly.

15 THE COURT: I will reserve decision on the motion
16 because the motion may have a real bearing on it. It
17 will be decided properly within a day or two.

18 MR. LAVAN-EPSTEIN: I will contact Mr. Berman as
19 soon as I return to the office.

20 THE COURT: By the way, I have Mrs. Waddell's
21 letter.

22 MR. ROONEY: Yes, Your Honor?

23 THE COURT: I have them.

24 MR. LAVAN-EPSTEIN: I don't have a copy of the
25 letter. You're talking about the Bureau of Prisons?

1 COLLOQUY 60a 20
2 THE COURT: Here is the letter. Make sure it gets
3 back to him.

4 MR. LAVAN-EPSTEIN: If it pleases the Court, I
5 will photostat them and return them.

6 At this time the Government moves to dismiss the
7 counts under 73-CR-1025, pursuant to and based upon
8 the entry of a plea of guilty and the acceptance of it
9 on Count 1 and the imposition of sentence on Count 1
10 of that indictment.

11 THE COURT: Motion is granted.

12 MR. LAVAN-EPSTEIN: That is to the defendant
13 Waddell only, Your Honor.

14 THE COURT: The other defendant is named in this
15 indictment?

16 MR. LAVAN-EPSTEIN: I'm not sure, but I didn't
17 want to take any chances.

18 I don't believe his name is mentioned, Your Honor.

19 THE COURT: Yes.

20 MR. LAVAN-EPSTEIN: The application would be made
21 only with respect to the defendant Waddell.

22 THE COURT: The motion is granted as to the defen-
23 dant Roberta Waddell.

24 MR. LAVAN-EPSTEIN: Good morning, Your Honor.

25 MR. ROONEY: Thank you.

COLLOQUY

(Whereupon, these proceedings were concluded.)

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MINUTES OF SEPTEMBER 15, 1975
(RULE 35 HEARING AND RESENTENCE)

62a

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA :

-against- :

73 CR 1025

ROBERTA WADDELL :

Defendant. :

-----x

United States Courthouse
Brooklyn, New York
September 15, 1975

B E F O R E:

HONORABLE JOHN F. DOOLING, JR., U.S.D.J.

RAYMOND P. STALKER
ACTING OFFICIAL COURT REPORTER

A P P E A R A N C E S:

DAVID G. TRAGER, ESQ.,
United States Attorney
BY: ALVIN A. SCHALL, ESQ.,
Assistant United States Attorney

PAUL K. ROONEY, ESQ.,
Attorney for the Defendant

1 COLLOQUY
2 THE CLERK: Criminal motion, United States versus
3 Roberta Waddell.

4 MR. SCULL: Good afternoon, Your Honor.

5 THE COURT: Good afternoon.

6 Mr. Rooney, I guess we all know the purpose of
7 this afternoon's hearing. It is on the motion for a
8 further hearing on the motion to reduce bail and to re-
9 duce the sentence in light of this particular matter of
10 a special additional parole term which I think is as a
11 matter of law requires a re-sentencing in some form.

12 MR. ROONEY: Yes, Your Honor.

13 THE COURT: Now I think that since there must be
14 a re-sentence of some form and that is the reason why
15 Mrs. Waddell must be here and this is again to ask
16 whether there is any reason why sentence should be be
17 imposed or a re-sentence?

18 MR. ROONEY: I'm not aware of any, Your Honor.

19 THE COURT: Is there anything you wish to say with
20 respect to sentence before it is re-imposed?

21 MR. ROONEY: Yes, Your Honor.

22 We have noted our position. We have before the
23 Court a number of times and I think you are familiar
24 with them.

25 I am not going to re-argue any of the positions

1
2 or motions to reduce. You have my letter of August
3 22nd. I don't think overall there is too much to add.
4 However, I would like to remind the Court of the last
5 time we were before the Court.

6 The Assistant United States Attorney, Mr. Lapin-
7 Epstein made what I consider a very, very strong state-
8 ment about Mrs. Waddell's cooperation and I thought it
9 important that he made the statement, not in opposi-
10 tion, but I thought in support of our motion to reduce.

11 Aside from this, Your Honor, I asked you again to
12 reduce this five year jail sentence based not only on
13 the cooperation but based on the family situation which
14 I also know you are aware of, the two daughters are not
15 apparently faring well. Everyone can see that. It's
16 not the best of circumstances. They need their mother,
17 but beyond this point I would like Your Honor to hear
18 from Mrs. Waddell.

19 THE COURT: Yes, is there any reason why Mrs.
20 Waddell why sentence should not be imposed --

21 MR. WADDELL: Your Honor?

22 THE COURT: Is there anything further you wish to
23 say with respect to sentence before it is imposed?

24 MRS. WADDELL: Well, I said most everything to you
25 in the letters.

1
2 I said -- I said almost everything I wrote you is
3 in the letters on August 1st and I told you then I was
4 really sorry for what had happened. I had -- had a
5 chance to assess my crime in a different kind of light
6 and I was truly sorry about it and I didn't tell you
7 then because I didn't know about how bad my family was
8 faring. I'm not faring badly. I could be better off
9 but it is not really my position --

10 THE COURT: It's certainly true.

11 MRS. WADDELL: It is really -- I said to you in
12 my letter it's my family and they're not doing well,
13 Your Honor. All kinds of things have come up that I
14 couldn't foresee and it is a cruel and harsh thing for
15 them. They need me badly and --

16 THE COURT: All I can genuinely say, Mrs. Waddell
17 is I think I made what I thought I had to do very clear
18 the last time and why I thought I had to do it and I
19 find myself unable to part from that.

20 You weren't here the last time, I think Mr. Rooney
21 went into the question of parole and what he considered
22 to be the unreality of an indeterminant or a (a) (2)
23 form of sentence that was imposed. He expressed the
24 fear that because of the nature of the offense really
25 that the chance of your being released in less than the

1 guideline period, which is as I recall -

2 MRS. WADDELL: Two years.

3 THE COURT: 26 months.

4 MRS. WADDELL: Yes.

5 THE COURT: With a most favorable background and
6 the certain factors and what I said to him is what is
7 all I can say to you is an (a) (2) is intended to im-
8 press upon the board of parole that there is no low
9 limit and they can recognize that after the application
10 of a genuine guideline and assailing factors which are
11 generally regarded by them to be guidelines, and to
12 treat them as rules rather than guidelines. But they
13 were under a duty to consider going outside them and
14 when they did, to explain the reasons.

15 So that they would not create a sense of unfair
16 treatment or of irregularity because as you know pri-
17 soners are aware of what happens to others at parole
18 hearings and would not be very happy about someone
19 getting out less than the guideline time while they did
20 not.

21 That is their responsibility and all of the factors
22 that you had brought out in your letter and that Mr.
23 Rooney made clear the last time are directed to seeing
24 that they release you at the earliest possible date
25

1 taking into account the family background and needs
2 and whether they think that is a factor, what the
3 family needs are and the structure is.
4

5 So when I, at the time of sentence, I did fill out
6 the form and drew the bureau of prisons attention to
7 the enclosure with your report and within your ^{father} brother-
8 in-law's letter and our own explanations and indicating
9 to them that the case was one in which obviously re-
10 quired individual attention.

11 I don't say I used that expression but something
12 that was calculated to see to it and that they didn't
13 just turn the file over and go on to the next matter.

14 Now what I fear and as much as I can in good con-
15 scious do and as you know I am no different from any
16 other Judge, I wish I could do something different.

17 MR. ROONEY: Your Honor does recall the statement
18 by Mr. Ladin-Epstein.

19 THE COURT: Excuse me?

20 MR. ROONEY: Does Your Honor recall the statement
21 made by Mr. Ladin-Epstein the last time I was here?

22 THE COURT: Yes.

23 You see, it works both ways. Ordinarily we pay
24 no attention to them when they say that and sometimes
25 we do.

1
2 When they say this is a La Mafia connection off-
3 ense and the defendant should be sent away for the
4 maximum, we pay no attention.

5 So here we do recognize exactly what has been said
6 and I can only say that has been taken into account.

7 In a narcotics case this would be regarded as a
8 light sentence for calculated importation in the order
9 and magnitude involved in this conspiracy.

10 Now on the special additional parole term the
11 law seems as I understand Mr. Rooney, the plea minutes
12 have not been transcribed but I think you had gotten
13 a transcript of a portion dealing with whether or not
14 the intention of the defendant has been drawn to
15 special additional parole features.

16 So in light of that and of the decided cases I
17 would think that the omission of the clause with res-
18 spect to the additional parole term at the time of sen-
19 tence does not prevent the imposition with the same
20 sentence, with the addition of the language with the
21 respect to the special additional parole term since
22 that is mandatorily included in the sentence and that
23 is what I propose to do.

24 On your plea of guilty on Count 1 of the indict-
25 ment, you, Roberta Waddell, are committed to the custody

1 of the Attorney General of the United States or his
2 duly authorized representative which will designate a
3 place of confinement for the term of five years pursuant
4 to Title 18, United States Code, Section 4208 (a) (2)
5 and to become eligible for parole at such time the
6 Board of Parole determines and to a special additional
7 parole term of three years.
8

9 Have you had your first parole hearing yet?

10 MRS. WADDELL: No, Your Honor.

11 MR. ROONEY: I think that's two months.

12 MRS. WADDELL: I have waived the September board
13 in August because I thought I was coming up to New York.

14 So I am probably, I am going to the M.C.C. so I
15 can go and meet the November board if one meets then.

16 MR. ROONEY: May the defendant be permitted a short
17 visit with the children, Your Honor?

18 MRS. WADDELL: With my family, not just my chil-
19 dren, with the whole family.

20 MR. SCHALL: At this time the Government would
21 move to dismiss Count 2 of the indictment if it is not
22 already dismissed.

23 MR. ROONEY: I think that's been done.

24 MR. SCHALL: It's a little unclear from the notes.

25 MRS. WADDELL: You said something about importation?

1 COLLOQUY
2 MR. ROONEY: The Judge is talking about something
3 else.

4 THE COURT: The importation is covered in the
5 conspiracy.

6 MR. ROONEY: I thought it was done, Your Honor,
7 but if it wasn't I join in the motion.

8 THE COURT: Yes, the conspiracy count and not the
9 importation.

10 MR. SCHALL: I wasn't clear from the note I had,
11 Your Honor, whether or not that had already been done.

12 THE COURT: I don't believe it has.

13 THE CLERK: I think it was.

14 THE COURT: The same language will be repeated
15 in the new judgement.

16 No, it hasn't been dismissed.

17 I have a notation it was to be done on July 3rd.

18 MR. SCHALL: It was held over until Mrs. Waddell
19 surrendered.

20 MR. ROONEY: I thought it was done the last time,
21 but Mrs. Waddell wasn't here.

22 THE COURT: The surrender took place by Mrs.
23 Waddell going directly to Alderson.

24 MR. ROONEY: I think the Count 2 is still open.
25 So I ask that it be dismissed if it hasn't been dis-

missed.

THE COURT: No, because there is no judgement.
There is nothing in the file which shows it has been
dismissed.

So if you move to dismiss Count 2 at this time
that motion will be granted and then that should be
incorporated in this judgement.

THE CLERK: I have it.

THE COURT: Alright.

MR. SCHALL: Thank you.

MR. ROONEY: Thank you.

CORRESPONDENCE BETWEEN DEFENDANT AND
ATTORNEY AND PROBATION DEPARTMENT

73a

6 June 1975

Dear Mr. Haran,

I very much appreciate the time that you and Ms. Ruchala gave to me to ask questions about prison and to read my pre-sentencing report again - this time more carefully. It was very helpful to me and I thank you.

I would like to repeat on paper what we talked about concerning the report. It contains a number of factual errors and draws what I consider to be two false conclusions which I feel to be very damaging to me. Since this report will follow me to prison and will be read by those concerned with my parole, I would like to have this statement of mine accompany it as part of the record, if you please.

I shall first list the errors in order of appearance - giving the quote and then the corrected facts. They are as follows:

(P3) "Defendant became involved in a scheme to promote a film produced by a Canadian Motion Picture Company."

(~~changed to business~~)
I object to the word "scheme" implying something underhanded. It was a straightforward business transaction, hopefully to make some money for my husband and myself, while promoting one of his artists, about whom the film was made, at the same time.

(~~Done~~)
(P6) "Jerry Gilber". His name is Gliber.

(P7) "On June 26, 1973, the remainder of the cocaine brought in by the defendant was transported by the defendant and Kip by plane to California."

(~~was not~~)
I never went to California. Army went to California with Kip and took the remainder of the stuff with him.

(P8) "Removed approx \$50,000 from her safe." (~~with it~~)

It was more than that, I think.

(P9) "She also delivered some of the drugs to California" (~~Delivered~~)

Second of three times this misinformation appears. I haven't been in California since I was a bride in October, 1956. A check will show that I drove them to TWA at Kennedy and they flew off to California. I also seem to remember somewhere in the report something about 23 Kilo's. Where on earth did that figure come from?? The suitcase seized Aug. 1, 1973 contained 13 POUNDS, not Kilo's, by the DEA's own count. Add to that approx. 10 lbs. from the first of my two trips and you get 23 POUNDS not Kilo's - which would be double the amount that I was actually involved with.

(P11) "However, her Mother also raised two sons deriving from other

(~~Chances~~)

marriages..." "The family moved again, this time to New York City."

This is not the way it was. My Mother had 1 son by a previous marriage whom she left with his father when she met my father. I was the only blood child ever raised by my mother. In 1944, she remarried (for the third time) a widower in New York who had a son my age. At that time, she and I moved to New York and the widower's son, Edward P. Noyes, became my stepbrother for the five years of that marriage and even though we are not now really related, we still consider each other brother and sister. He is to be the Legal Guardian for the children while I am away and he is giving up his own apartment and life style to move into our house and be there for my two girls.

(Described financial conditions during her childhood as insecure although...)
(P11) "Defendant was reared under financially secure conditions." *says*

This statement seems to miss the whole point of my young life, because the exact opposite of it was true and was part of the whole problem of my life. The financial conditions that existed during my childhood were very very insecure and horrendous fights over money occurred with regularity.

(Recalls several) (where) Deleted
(P12) "She remembers occasional visits by the FBI during her upbringing whereby agents would question her mother regarding her father's whereabouts." (Deleted)

This is not so. The visits from the FBI were made to me at my home after I was married. To the best of my knowledge, my mother was never visited by them, either then or at any other time in my life.

(P14) "Defendant's brother believes that the defendant became involved in the offense for quick and easy money." (Deleted)

I questioned my brother, Eddie Noyes, about this quote attributed to him because it did not sound like something he would have said. He told me that he never said or even meant to imply that. What he did say, according to him, was that he felt I needed money badly from what I told him after the fact. That carries an entirely different connotation from that which he was alleged to have said and which he denies having ever said.

(P15) "In 1964, he (Dick Waddell) attempted to establish the Waddell Art Gallery located in New York, New York. When the Gallery began to fail financially, he became a heavy drinker and established a relationship with another woman." (Surrounding)

It was not really like that at all. In the 60's the gallery was a huge critical success. It was not until the 70's that it failed. The affair with his secretary took place during a very productive phase of the Gallery's operation - '65-'66. He did drink heavily during that period, but eased off afterwards and did not start his final slide into alcohol until several years later.

(P16) "He (Chauncey Waddell) believes the defendant regretted the divorce from his son, an action Margulis encouraged the defendant to take."

(inserted)

People have heard Chauncey Waddell state on numerous occasions that HE regretted the divorce between Dick and myself. He knew how badly Dick wanted out of the marriage and how good it was for our relationship once I accepted the necessity of parting from Dick. He knows that I finally came to see it as the best solution and that I don't regret it at all and further that Dick and I became close friends after the divorce in a way that we never could while we were living together and tearing each other apart.

(P22) "Enclosed is a letter from the psychologist seen by the defendant and briefly by her ex-husband during the period of their marital difficulties." (deleted)

Dick Waddell saw Dr. Dalton for the same amount of time as I - after all, we were working on the same marital problem.

(P23) "...plus Social Security Benefits resulting from her ex-husband's death which amount to \$1,000.00 per month..."

(Chauncey)

I wish it were true. We currently receive \$306.40 per month.

(P24) "The defendant owns and has paid for a 1973 British Motor Wagon 2 Door Sedan valued at \$5800.00."

(originally)

I own - and it's ALL I own - a BMW (Bavarian Motor Works) - a German car and a very sensible buy in terms of being sturdy and troublefree.

(Pp 23-24) "...a home, owned by the defendant and her husband prior to their divorce, originally in Dover Plains, New York, was sold as of 1973. There is a second residence in Pine Plains, New York which is presently owned by the defendant's ex father-in-law. The defendant stated she did not receive any income from the sale of the home in Dover."

I can't imagine where this all came from. Again, I do not - and have not ever - owned a home anywhere - either before, during, or after my marriage. In October, 1972, AFTER my separation and divorce, I and I alone - rented a small house from Henry and Mary Schrader of Dover Plains. The lease ran out in Oct. 1973, + I proceeded to rent ~~another~~ house in Pine Plains, New York which I still rent. There is no ownership involved by me or any other members of my family, in-laws, etc. My father-in-law helps by paying for the upkeep of the horses as a gift to my girls, but I receive and I disburse all of the monies connected with the running of the house.

(P24) "A tenant resides in this house year round and he pays \$170.00 per month rent plus half the cost of gas and electricity to the defendant's father-in-law."

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This tenant in Pine Plains, who helps to look after the horses for us, pays the rent to me, not to C.L. Waddell, who is not in any way connected to the leasing of this house. The lease is in my name.

(P24) "The defendant listed no debts at the present time."

I thought it was understood by all that the monthly maintenance which I receive from Chauncey Waddell is considered a loan by him and by me and that I am therefore going deeper into debt with him every single month.

So much for the facts except to comment on the word "luxurious" used in connection with my present apartment. It all depends, I guess, on where you're coming from. To me, I moved out of a truly luxurious duplex apartment on East 76th Street, which had been my home for 16 years, and into a smaller and simpler place on the West Side in order to cut my rent in half and to live much more simply.

Now on to the evaluative summary.

(P24) "Although she claims to have received no more than \$30,000 from the entire scheme, she also alleges codefendant Margulis, currently a fugitive, emptied the safe in her apartment and fled with \$50,000.00, the additional proceeds of sales of the cocaine. The defendant admits she financed the total operation, smuggled the drugs in from South America, stored and packaged the first ten pound shipment and helped to distribute it from her home and on one occasion personally delivered a quantity to California. She was apprehended on her second trip (the instant offense) with 13 lbs. of cocaine hidden in double bottom luggage.."

(P25) "While codefendant Margulis was undoubtedly part of her life during the period of the offense, her extremely active participation in all phases of the smuggling and sale of the drugs by her own admission makes Margulis a secondary participant. While the defendant makes Margulis out to be the real villain in this scheme, her extremely active involvement strains the validity of such a conclusion."

(P26) "She resides in a luxurious apartment in Manhattan with her children and paramour and receives a substantial monetary contribution from her ex father-in-law who has chosen to fulfill his son's obligations as by the divorce agreement." ... "The defendant appears intelligent and creative on the surface. She probably is capable of making a success of any chosen field of endeavor. However, she emerges as an emotionally immature person whose long standing dependency needs obscure her native intelligence and overturn her common sense. Even now, when she verbalizes greater self understanding and some re-ordering of her life, she has brought into her home, and that of her children, a paramour twelve years her junior. That he should state he is helping her to discern those who would take advantage of her truly ironic." ... "While due consideration

must be given to the defendant's personal problems and family responsibility, one cannot ignore the extent and gravity of the offense she perpetrated and her very active participation in drug trafficking."

In connection with all of the above, you said several things in our talk which took me by surprise, although in retrospect I can see how they would naturally concern you. The first was your expressed fear that my emotional immaturity might get me into some sort of trouble again. I agree that this lack of emotional maturity has been a serious problem in my life. Often, I can intellectually see clearly what I can't handle emotionally, but that's true of many sensitive and perceptive people, I'm sure. In the past, I have not always dealt well with emotional matters, but in the last years I have cleared many emotional hurdles, and every hurdle that I clear is another lesson in strength for me and another step closer to emotional maturity. Let me assure you that I have one thought in my mind: to get this over and done with and behind me as quickly as possible and to never again be dumb enough to let myself get trapped in such a damaging, rotten situation. It takes far too much energy away from constructive matters and it's too draining on all. This once in my life, I allowed my emotions to rationalize me into doing something completely against my own principles - something with which I was not comfortable at bottom, - and out of this has come a never to be forgotten lesson for me - a lesson which makes me sure that this kind of thing can never happen again - so you can rest easy on that score.

The next thing you said which surprised me was that you felt that I might have continued to be involved in the cocaine business if I had not been arrested, but let me assure you that this arrangement between Army and myself was finite and was instigated (by him) only for him to make money to pay me back and supposedly give me and my family some future security, though now it seems it was all to make money for him. I had NO intention of going further with it and was, in fact, very impatient for it to be done with, because it was seriously interfering with my own personal life which was the nicest it had been in years and which I did NOT want to put in jeopardy with all of my secrecy and mysterious comings and goings. By arresting me, all that was stopped was my participation in drug dealings which were about to stop anyway! Nothing else, ^{was stopped,} I'm pretty sure. However - had the tables been turned - Had it been Army who was arrested and who cooperated, then some big drug dealings would have been stopped, I'm sure, and I would have been considered a rather unimportant dupe in the case. That I am considered otherwise says more to me about the agency's need to think they've caught the mastermind than about the true extent of my involvement. I frankly don't know how anyone, given the facts at hand, could ever consider me primary and Army secondary, but I assure you - NOTHING could be further from the truth - as anyone even remotely connected with either Army or myself in '72-'73 can tell you. In point of fact, this whole suggestion would be hilarious were it not so serious in its implications and so extremely damaging to my case. It's

disappointing, too, because in my talks with the agency people, I tried very hard to reproduce exactly the events and the atmosphere in which they occurred and all of that seems to have been swept aside with the casual dismissal of Army's role as nothing but a secondary one. Do you really think that if I had fully understood the extremely heavy nature of my involvement that I would have done all of the different things I had done?? I mentioned to you that, when people heard later of how many different things I had done, they said that I was really stupid and naive, because they told me that no-one in the world who knows anything at all about the gravity of the punishment, if caught, would ever undertake more than one of roles which I took. Learning this, I called myself doubly stupid - to ever get involved at all and to take on so much, once involved. My "friend" Army talked me into taking the money out of my stock account and into every thing else that followed and - make no mistake about this - he led me step by step through the thicket. This seems to me so obvious that I am baffled as to how anyone could come up with the erroneous conclusion that he was secondary. As I said, it would be funny were it not so damaging to me. It even calls my honesty into question which offends me because if there's anyone thing I truly am - it's honest. I tried so hard to paint a clear picture of what went on in that 6 month period - only to see the clarity eroded by false facts (Such as the California trip I never took and by accusatory words and derogatory insinuations.

A curious fact is that I didn't even understand or see the extent to which I had been manipulated. At first, I defended Army passionately and it wasn't until friends pounded it into my head that I came to accept - sadly and reluctantly - the fact that I had been used and manipulated for Army's own nefarious ends. Army was, and probably still is, an extremely clever manipulator of people - a real pro. He could probably talk most anyone in or out of anything if he set his mind to it. In our case, he completely controlled the situation and on more than one occasion - he told me to stop thinking for myself and stop trying to do things independently because, if I did, I would just mess it up. As it was, he constantly disapproved of most everything I did and I kept on trying to please him by doing it right, but it was never good enough for him.

In all of this, it is extremely important to me that you really understand that Army was the sole and chief person responsible for arranging these illegal doings and that he ended up with the lion's share of everything. Also, that you further understand that I NEVER would have gotten involved had it not been for him. This is the key essential point and I feel that I can't make it too strongly! Another point to remember is that all of this happened almost two years ago and so much has happened since, and things are so completely different now that it's almost difficult to relate to that whole era in my life. In light of what I am doing now, it almost seems unreal.

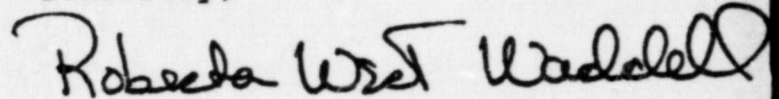
79a

The last point made about my "paramour" strikes me as prejudiced and highly unfair to the person in question. Prejudiced because it seems to imply that there is never any way that a valid relationship can ever exist between 2 people 12 years apart-if the man is the younger party in the relationship. In our case, we have been together for more than two years and this is just not true of us. My relationship with Bruce Coleman happens to be the nicest, happiest one I have ever enjoyed with a man and I treasure it for what it is, for what he[^] and for what it gives to us both. Further, it is highly unfair to Bruce because it implies that he is living in my house only for what he can get out of it - that he is in effect just using me and has no valid or real feelings for me. This is just not true. We return each other's feelings and if we did not, the relationship would be done with. To bring him into the scene in such a sideways way and to drag him through the mud with sarcastic and snide remarks is unnecessary, prejudiced and completely unfair to him, to me and to a very decent, good and valid family situation.

That about covers all of the points. I sincerely hope you will allow this letter to be appended to the pre-sentencing report that follows me to prison.

Again, thank you for your time and courtesy to me last week.

Sincerely,



Roberta West Waddell

Mr. James F. Haran
Chief U.S. Probation Officer
U.S. Courthouse
Room 304
225 Cadman Plaza East
Brooklyn, New York 11201

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
PROBATION OFFICE

80a

JAMES F. HARAN
CHIEF PROBATION OFFICER

ROOM 304, U. S. COURT HOUSE
BROOKLYN 11201
212-875-8044

June 26, 1975

Mrs. Roberta West Waddell
100 Riverside Drive
Apartment 12-A
New York, New York 10024

Dear Mrs. Waddell:

We acknowledge receipt of your letter of June 6, 1975 and thank you for calling to our attention some inaccuracies in the presentence report prepared for the Court in your case.

This is to advise you that we carefully looked over the presentence report and have changed or revised it with respect to most of the factual inaccuracies that you pointed out. We called to the attention of the Honorable Judge Dooling the discrepancies in the report originally submitted and we pointed them out to him and he now has in his possession a corrected copy of the report and all prior copies have been removed from the files.

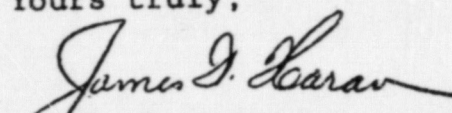
The reference to your making a trip to California with drugs we have found to be completely in error and all reference to this has been removed from the new reports.

We take note of your objections to the Evaluative Summary portion of the report. However, this has not been changed other than to, as we previously stated, remove the statement that you had delivered drugs to California. The Evaluative Summary portion of the report represents the Probation Department's interpretation of the defendant as a person and their overall involvement in the offense which brings them before the Court. Sometimes the defendant agrees with this interpretation and sometimes they do not. You have your rationalizations for your activities and this is your perfect right. Others are, of course, not bound to interpret everything as you yourself see it. I'm sure you would agree that some

of your actions are open to a variety of interpretations. We are, however, including with your report both your original letter to the Court and a copy of the letter you addressed to me under date of June 6th. Anyone perusing your records will therefore have full access to your lengthy explanation of your activities and your personal background. Thus, they can be in a position to evaluate your summary of your activities as well as peruse the Court report.

Again, we thank you for calling inaccuracies to our attention. We regret we cannot send you a copy of the revised report but if you wish to peruse it with the corrections sections marked, please feel free to call at our office and do so.

Yours truly,



JAMES F. HARAN
CHIEF U. S. PROBATION OFFICER

cc: Honorable John F. Dooling, Jr.
United States District Judge

cc: Paul K. Rooney, Attorney At Law
521 Fifth Avenue
New York, New York 10017

changes (personal)

82a

23.

The defendant submitted income tax statements for 1972, 1973 and 1974 which revealed average incomes of \$2,000 for each year. It is noted that her ex-father-in-law's sizeable monetary contributions were not included in the statement, and apparently have been the major source of her income within recent years.

11. MILITARY SERVICE:

The defendant has never served in the military.

12. RESOURCES:

In addition to her salary of \$150 per week, the defendant receives approximately \$1,500 per month from her former father-in-law plus Social Security benefits resulting from her ex-husband's death which amount to \$306.40 per month. The approximate total income of \$2,400 per month is, according to an elaborate and detailed budget submitted by the defendant, is spent on numerous family expenses. The defendant owns and has paid for a 1973 Bavarian Motor Works two door sedan originally valued at \$5,800.

In addition to her New York City apartment, since 1973 the defendant has leased a house in Pine Plains, New York. A tenant resides on the premises and helps to look after two horses there, the gifts of her father-in-law to his grandchildren, her daughters. Her ex-father-in-law contributes to the upkeep of the horses but defendant handles all monies connected with the running of that house and receives^a monthly rental of \$170.

mother-in-law's legacy to her son. In 1964 he successfully 83a
established the Waddell Art Gallery located in New York, N.Y.
In the 1970's the gallery began to fail financially. During
1965 and 1966 he drank heavily and had an affair with his
secretary which the defendant became aware of. He subse-
quently controlled his drinking for a period of time but
later reverted to excessive drinking. After a period of
great emotional stress the couple separated in May, 1972
and obtained a divorce five months later. The divorce
settlement provided for almost complete child support and

is suspicious of Margulis after
Junter finding him "strange" and "possibly into drugs."
He believes the defendant regretted the divorce from his son,
an action Margulis encouraged the defendant to take. The
defendant on her part states she does not regret the divorce
at all but feels that her former husband and herself "became
close friends after the divorce in a way that we never could
while we were living together and tearing each other apart."
He was shocked initially upon hearing of her wrongdoings.
However, he expressed approval for the manner in which the
defendant is currently conducting her life.

July 12, 1975

Mr. James F. Haran
Chief Probation Officer
Eastern District of New York
U.S. Court House
221 Cadman Plaza East
Brooklyn, New York 11201

Dear Mr. Haran,

Well, here I am in West Virginia and before too much time elapses and I get fuzzy on the conversation we had just before I left, I want to again repeat to you in writing what I said to you in person concerning the evaluative ~~exam~~ summary of my pre-sentencing report.

As you know, I take great exception to that section as it stands. In general, I think people have the right to hold any opinion they want, except when those opinions can do actual harm to others and that's how I feel about the caseworker's projections as to my role in the importation of cocaine. Unless you have changed your mind since our last meeting, you seem to still feel, in spite of what I've told you, that I was primary and Army was secondary - mainly because I was so active and because you felt I was too intelligent to be led by anyone for that long a time - 6 months. I realize that I made a serious tactical error in my honest opening up of my role to the DEA. To wit: I only detailed my role since I was chiefly talking about myself. I should also have given them a blow by blow description of Army's maneuvers while it was all fresh in my mind so that everyone concerned could see that I was active, he was even more active than I.

He apparently met some people from California, I don't know who, sometime around New Year's 1973. They gave him the idea for building the sculpture to ship back smuggled goods in. He decided to make those goods cocaine so he constructed the structure, made contact (thru friends somehow) with Patty Bennett, arranged to have her come East from Arizona or New Mexico, I forget which. He then got her to go down to Bolivia to hunt up a chemist to supply the cocaine. She apparently did this and he went down there and joined her and he made arrangements to send back a shipment. He told me that the sculpture had broken so he did it some other way which did not involve me at all. I had very little to do with any of this part. He returned to New York and, at some point, either went to California or arranged with California (I forget which - this was all a LONG time ago - 2 years in time - about 14 Light Years in terms of head space and where I am in my life now) to have the false bottomed bags made which he then arranged to have sent down to Bolivia. This, too, I was not really involved with. Then he took another trip to South America and came back and was completely in charge of how the second shipment (my FIRST trip) was to be brought in. At the right time, he said, "Go," to me and I went to Buenos Aires and he went to Bolivia the same day and then he joined me in B.A., bringing the false-bottomed bags full of cocaine with him. He turned them over to me at that point to bring them back to New York. He followed me home, very sick with hepatitis, a few days later and the rest you already know -- about him directing me from his sick bed via telephone and then, even though sick and probably contagious, him taking the balance of that shipment out to California and then coming back to New York; arranging for the empty bags to be sent down to Bolivia; sending me to B.A.; his going down to Bolivia about a week and a half later and then showing up in B.A. with Patty Bennett and the false-bottomed bags which were then turned over to me - already filled - to bring back to New York.

As I said to you - 1 - YES - I was active in all of this. 2 - YES - I feel that

I am, as a thinking adult, responsible for my own actions and ~~I~~ - NO - I never was Primary in this matter. I was an active, but SECONDARY participant.

I am not trying to exonerate myself at someone else's expense. I feel that I did something wrong and I am paying the price for that - paying an old debt as it were. BUT - I don't want to pay, also, for what someone else did(also.) Since you corrected every factual error in the report (and there were a lot) and still left the evaluative summary in tact, it's possible that the Parole Board could judge me MORE harshly for that and could prolong my stay in jail, which would be disastrous for my family.

As I told you, this judgement is not as harsh on me as it is on my family. I don't consider this incarceration my punishment nearly as much as I consider it my family's punishment. MY punishment came in all of the lousy things that happened to me in the two years between my arrest and my sentencing. As far as being here is concerned, I have gone off to have time to be myself, find out who I really am, and, hopefully to experience a major breakthrough in my life's goals as a result of being here; But, meantime, my family is left with ALL of the burdens. I got just about everything done before I left and it's all as tidily together as I could get it, but I don't know for how long it will stay together. My brother does want to get married and won't be able to stay too long and my 12 year old is kind of left hanging by my departure and the entire burden of actually running the house has fallen on my 17 year old who is also beginning her college career this fall with all of the demands that that imposes. These are just a few of the problems created by my departure and it's just not fair at all to THEM. So, somehow you've just got to realize that it was not in my nature to play the role of instigator. I was a totally "straight" lady before I came across this charming outlaw. I am again straight and have every intention of continuing to be straight for the rest of my life. It's one thing to be different - which I am and always will be - and quite another to be illegal. I've learned the difference, and where the line has to be drawn, the hard way.

As to Army being able to lead a person of my intelligence for any length of time -- Do you know what it's like to be able to relax and let someone else do the thinking for a change?? For almost all of the years of my marriage, I had to be the strong one, the leader. I was the one who paid the bills, did the stock portfolio, the insurance matters, got the tax material together, found the schools for the children and made many of the key decisions in our life together. Then, along came Army, who was smarter than I and quicker (in direct contrast to my slower husband), more forceful than I and I just relaxed at some point early in the relationship and said to myself, "OK, Army, you lead for a change. I'll relax and follow." AND - look where it led me. Right to prison. Believe me, no-one is EVER going to be able to lead me like that again! EVER!!

Now, to tackle this business of following in my Mother's footsteps, since some of the judges felt, from my own account of her, that THAT was what was happening. I think you have to know my Mother to see how far fetched that is, but let me sum up the essential points of difference;

- 1 - My Mother is a very vain, silly and shallow woman. I am Not these things.
- 2 - My Mother is doomed to repeat all of her mistakes because she lacks insight and self-awareness and has never been truly honest about herself or learned much of anything from her mistakes. I am perceptive, I DO have insight into my problems, I have an increasing self-awareness and I DO learn from my mistakes, and I am brutally honest about myself.
- 3 - My Mother can be a hypocritical and vicious woman. She has almost always failed me whenever I have needed her. She can't talk a person

to their faces and turn around and say vicious things about them behind their backs. I am not a hypocrite, nor can my general mien be described as vicious, nor do I let my children down. I have always supported them and I have a LOT of respect for them both and would never knock them behind their backs as my Mother does with me. Even from here, I know that they know that I'm with them and behind them and loving them very dearly. So, please put aside any odious comparisons between me and my mother.

As for Bruce -- You seemed concerned that he might leave me since we have chosen to live without what WE consider to be false and unnecessary and undesirable bonds to our relationship. You say that he could leave me at any time. I could leave him too for that matter. You seem to be afraid that somehow, if he leaves me, I'll spin off into a life of crime in my grief. This was because you made, in your own mind, some kind of comparison between him and Army. First of all, Army was leading me in the wrong direction and his not wanting me made me follow him a little bit more, but it was the direction that was wrong in the first place. Bruce, on the other hand, is studying to become a surgeon and is not leading me off on any wrong trails anywhere. In fact, in our relationship, no-one is leading anyone. We are going side by side - as two independent people who love each other and respect each other's individualities do... a very healthy basis for a very nice relationship, wouldn't you say? Certainly, we could and might split up, but to fear that this is going to so emotionally unbalance me that I will veer off into a life of crime (what crime? Where?) is tantamount to saying that I'm not capable of learning anything at all from my mistakes. Surely, you must realize from my letters and my several talks with you that I have learned from my mistakes and that I am going forwards - not sideways or backwards.

If you still won't change the evaluative summary - which I fervently hope you will because the one that's been written does me an injustice and makes a mockery of my attempt to be open and honest with you and the other authorities - if you won't do this, at least put this letter in with the other records so that the Parole Board can see it too. They meet here next in September, I'm told.

This is not such a bad place at all. The setting is BEAUTIFUL, the grounds are well tended and the buildings are attractive in a campusy kind of way. So far, every single staff member I've had contact with has been courteous and has shown us respect as individuals, leaving us with our dignity intact. This is a far cry from the things that one has heard about the corrective institutions. All in all, under the circumstances, I feel that I am in pretty good hands and I hope to make full and complete use of my time and my talents while here.

Thanks for your patience in listening to me.

Sincerely,

Roberta W. Maddell

Rooney & Evans

Attorneys at Law

521 Fifth Avenue
New York, New York 10017Telephone: (212) 682-4343
Cable address: Yenoorex

July 21, 1975

Paul K. Rooney

Elliot L. Evans

Mr. James F. Haran,
Chief Probation Officer
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Roberta Waddell

Dear Mr. Haran:

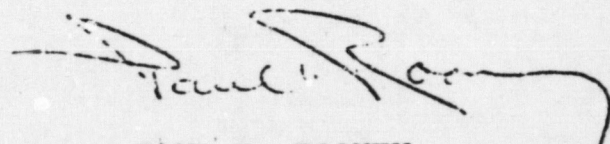
Enclosed is a letter to you which I have received from Mrs. Waddell.

I am, quite frankly, disturbed by what has happened in the Pre-Sentence Report. How anybody could conclude that Roberta Waddell--rather than Army Margulis--was primarily responsible for the cocaine transaction is beyond me. I doubt that this is the belief of the United States Customs Department. During the last two years I attended several meetings with agents of the Customs Department and Roberta Waddell and there was never any doubt in anyone's mind that Margulis was the prime mover. This was simply never an issue. Margulis had the South American contacts, the California contacts and the associations with the suppliers and other couriers, e.g., Patty Bennett.

In the interest of fairness and justice the Pre-Sentence Report should be corrected to fairly state this fact, that Army Margulis was "primary and Roberta Waddell secondary" on the ladder of this crime.

I would be most willing to discuss this matter with you or anybody else at your convenience if you wish. In any event, would you kindly advise me of your decision.

Sincerely,



PAUL K. ROONEY

PKR/ef
Encl.
BCC: Mrs. Waddell

UNITED STATES COURT OF APPEALS

UNITED STATES OF AMERICA,
Appellee,

- against -

ROBERTA WADDELL,
Defendant- Appellant.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF

NEW YORK

ss.:

I, **James A. Steele** being duly sworn,
depose and say that deponent is not a party to the action, is over 18 years of age and resides at
310 W. 146th St., New York, N.Y.

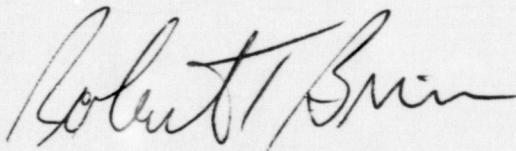
That on the **29th** day of **Dec.** **1975** at **225 Cadman Plaza, Brooklyn, NY**

deponent served the annexed *appendix* upon


DAVID G. TRAGER U.S. ATTNY- EAST DIST.

the **Attorney** in this action by delivering a true copy thereof to said individual
personally. Deponent knew the person so served to be the person mentioned and described in said
papers as the herein,

Sworn to before me, this **29th**
day of **December** **1975**



ROBERT T. BRIN
NOTARY U.S. State of New York
No. 31 0418950
Qualified in New York County
Commission Expires March 30, 1977


JAMES A. STEELE